

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7556 of 1996

with

SPECIAL CIVIL APPLICATION No 780 of 1997

to

SPECIAL CIVIL APPLICATION No 797 of 1997

with

SPECIAL CIVIL APPLICATION No 840 of 1997

to

SPECIAL CIVIL APPLICATION No 846 of 1997

with

SPECIAL CIVIL APPLICATION No 4210 and 4601 of 1999

and

SPECIAL CIVIL APPLICATION No 5141 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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RATHWA R JESINGBHAI

Versus

STATE OF GUJARAT

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Appearance:

Special Civil Application No. 4210 of 1999

MR RK MISHRA for Petitioners

MR SP HASURKAR for Respondent No. 1

MR HH PATEL for Respondents No. 2 to 7

In all other Special Civil Applications

MR RK MISHRA for Petitioners

MR VB GHARANIA for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 06/08/1999

ORAL JUDGEMENT

1. Rule in special civil applications No.4210, 4601 and 5141 of 1999. Shri S.P. Hasurkar waives service of rule on behalf of respondent No.1 and Shri H.H. Patel waives service of rule on behalf of respondents No.2 to 7 in special civil application No.4210/99 and Shri V.B. Gharania waives service of rule on behalf of respondents in special civil applications No.4601 and 5141 of 1999. With the consent of learned counsel for the parties, the matters are taken up for final hearing today.

2. In all these matters, common questions of facts and law arise and as such the same are being taken up for final hearing together and are being disposed of by this common order.

3. The facts of this case are taken from special civil application No.7556 of 1996. In this petition there are in all 28 petitioners out of which, the services of the petitioner No.2 have already been terminated. This Court has not permitted this joint petition and under the order dated 5th October, 1996 it was taken to be only a petition on behalf of the petitioner No.2 alone. Other petitioners filed separate petitions which are being numbered separately. All these petitions were admitted on 25th February, 1997 and the learned counsel for the respondent made a statement that henceforth the services of any of the petitioners are not going to be terminated. In view of this statement, no further order has been passed.

4. The petitioners were called for interview on the basis of their names being sponsored by the employment exchange by the respondents which were held in June/September, 1992. They have been selected but in

July/November, 1992 they were given the appointment on different posts as daily wagers. They continued to work as such but in September, 1996 the services of the petitioner No.2 has been terminated, and other petitioners having the apprehension of termination of their services filed this petition before this Court on 5th October, 1996 and prayed therein for the following reliefs:

- (A) This Hon'ble High Court be pleased to allow this petition and further be pleased to issue appropriate writs to the effect that the petitioners are entitled to be regularised as permanent regular workmen on respective post from the date of their entry in services and the petitioners are entitled for all the benefits including salaries of the permanent regular workmen based on "EQUAL PAY FOR EQUAL WORK", and all other benefits attached to the permanent regular status.
- (B) This Hon'ble Court be pleased to direct the respondents to pay differences of salaries and all other benefits to the petitioners within stipulated time, attached to the permanent regular status.
- (C) This Hon'ble Court be further pleased to declare that the petitioners are entitled for the orders as regular permanent workmen from the date of their entry in services of the respondent-department.
- (D) Pending hearing and final disposal of this petition the respondents be restrained from terminating services of the petitioners in any manner by their agents/officers and/or any subordinate authorities in any manner whatsoever.
- (E) This Hon'ble Court be further pleased to held that termination of services of the petitioner No.2 without any notice, without notice pay, without any process of law is illegal and hence the petitioners No.2 is entitled for reinstatement in service with full back wages and all other benefits, including permanent status from the date of entry in service of the respondent department.
- (F) Cost of this petition be kindly awarded.

5. It is the case of the petitioners that there were permanent sanctioned post of Class IV in the office of the respondents. They were called for interview on their name being sponsored by employment exchange for appointment on the permanent posts but in the garb of some ban in the recruitment they were taken as daily wagers. This factual aspect now no more remains in dispute as this Court has already decided identical matters being special civil application No.12243 of 1994 decided on 11-9-1998 and special civil application No.7156 of 1996 decided on 22-4-1999.

6. Learned counsel for the petitioners submit that these matters are squarely covered by these two decisions which position has not been controverted by the learned counsel for the respondents.

7. In the result, all these special civil applications are allowed and the respondents are directed to consider the cases of the petitioners to give them the regular appointment in the pay scale of Class IV posts from the date of filing of these special civil applications, that is, 5-10-1996 in special civil application No.7556/96, 27-01-1997 in special civil applications No. 780/97 to 797/97, 28-01-1997 in special civil applications No.840/97 to 846/97, 16-06-1999 in special civil application No. 4210/99, 29-6-1999 in special civil application No. 4601/99 and 15-07-1999 in special civil application No. 5141 of 1999.

8. As the counsel for the respondents have not opposed in substance these special civil applications and these matters have also been covered under the decisions aforesaid of this Court and further the learned counsel for the petitioners stated that he is in fact providing free legal aid to the petitioners, no order as to costs.

9. Rule is made absolute in the aforesaid terms in all these special civil applications.

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